

**House Committee on Appropriations
Subcommittee on Homeland Security**

Testimony of

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Chairman Rogers, Ranking Member Sabo, and Members of the House Subcommittee on Homeland Security Appropriations, my name is Jim Zimbardi and I am the vice president at ChoicePoint who is responsible for our TSA background screening project. On behalf of the company's Chairman and CEO, Derek Smith, and the nearly 4,000 dedicated ChoicePoint employees throughout the United States, thank you for this opportunity to appear before you today.

ChoicePoint, headquartered in the Atlanta area, is the leading provider of identification and credential verification services for making smarter decisions in a world challenged by increased risks. Serving the needs of business, government, non-profit organizations and individuals, ChoicePoint works to create a safer and more secure society through the responsible use of information while ensuring the protection of personal privacy.

We recently celebrated our fifth anniversary as an independent company that is publicly traded on the New York Stock Exchange.

We operate four major business lines – Insurance Services, Public Records, Pre-employment Background Screening (including drug test administration) and Marketing Services. Each business group provides information tools needed to make better decisions about the people or organizations with whom you do business.

We help consumers secure needed jobs through the more than 8 million background checks and drug tests we perform each year. Using our tools, the insurance industry is able to customize homeowner and automobile insurance premiums based on a consumer's unique behaviors and circumstances, not rates based on broad classes of individuals.

Government agencies at all levels of public service are able to fulfill their missions more efficiently and cost effectively using a variety of our public record based products and services.

For example, ChoicePoint supplied public record information to the Maryland State Police used to identify and locate the suspects in last year's sniper investigation. Through our DNA identification business, we helped identify the victims of the terrorist attacks on the World Trade Center. Other government agencies rely on ChoicePoint to help reduce fraud.

Through our corporate citizenship program, ChoicePoint Cares, we provide volunteer screening for the nation's leading non-profit organizations such as the Boys and Girls Clubs of America, the Boys Scouts of America and Little League Baseball, to name a few. Products and technology donated to the National Center for Missing and Exploited Children have lead to nearly 800 children being reunited with their loved ones in the past four years.

At this time I would like to walk the Committee through ChoicePoint's role in helping the Transportation Security Administration (TSA) meet its congressional mandate.

ChoicePoint and the Transportation Security Administration (TSA)

TSA should be congratulated for its efforts to bring the technologies and information tools that have been proven in the private sector to bear in the public sector as a means of increasing efficiency and reducing the costs of conducting security enhancing background checks.

ChoicePoint has supported the TSA with a number of transportation initiatives since the spring 2002. TSA selected ChoicePoint to bring the same proven technologies and techniques used every day in the private sector into the public sector to help complete background checks on more than 112,000 federal airport screener candidates during a nine-month period. With extremely short notice, ChoicePoint dedicated multiple resources, including on-site customer service representatives, data, development and other resources to implement this complex project with a customized process to meet TSA's rigorous and unique requirements.

Although the vast majority of our work on behalf of the TSA involved background screening, we also created a system to help automate the airport screener application process. This system included a secure Web site where an applicant could complete the required Standard Form 85P (SF85P) and have the form reviewed for completeness before the application process could continue, eliminating incomplete or clearly false applications. We also built a secure electronic filing cabinet where background checks completed by ChoicePoint could be accessed by the TSA or their designated vendor to complete the next phase of the hiring process.

Our involvement in the broader hiring process was limited to accepting applicant information supplied by NCS Pearson, conducting a multi-part background check, and using TSA's criteria to place candidates in a color-coded classification system based on the results of the background check. The attached chart (Attachment A) illustrates what ChoicePoint did and where we understand we fit within the broader hiring process.

You should also be aware that ChoicePoint has worked with the TSA and the airport community to assess risk associated with workers that have access to secure and sterile areas of airports.

The Background Process

As you can see on Attachment A, ChoicePoint accepted information on approximately 112,000 applicants from NCS Pearson. Upon receipt of the applicant information, we conducted a background check in two phases. Phase One included a criminal history review and credit check, after which a candidate was classified under the color coding system and the results returned to the TSA or downstream contractor. Phase Two checks involved verifying references, education and work histories, after which a candidate was classified again under the color-coding system and the final results were forwarded to the TSA or downstream contractor.

As you can see on the chart, we completed more than 112,000 background screens and forwarded them for additional actions under the broader hiring process. That was the extent of ChoicePoint's involvement.

We do not know what occurred before we received the applicant data or what occurred after we completed our part of the broader hiring process.

Information Validation

Prior to the start of a background check, we reviewed each application in an information validation process. The validation process determined if the applicant had truthfully and fully completed the application without concealing, misrepresenting, or exaggerating information. The verification process helped ensure that the applicant supplied accurate and complete data without omissions or fabrications that might misrepresent or conceal elements of their background that might reflect unfavorably.

Criminal History Reviews

Once the validation process was complete, we conducted a thorough background check based on the SF85P data we received from NCS Pearson.

The scope of the background checks on applicants was determined by TSA. A completed background check included the following elements:

- A. Credit Check
- B. Local Agency Criminal Record Check
 - A 10-year search of federal, county and local court records in all locations where an applicant has lived
 - A 7-year search of local and county court records in all locations where an applicant has been employed.
 - Local and county court records are also searched in the area of any educational institutions the applicant attended within the past 7 years.
- C. ChoicePoint National Criminal File Search (a national database search of more than 75 million criminal conviction records developed and maintained by ChoicePoint).
- D. Verification of the applicant's Employment History for the past 7 years or back to age 16, including the present employer.

- E. Verification that the applicant graduated from a high school, received a GED, or the equivalent.
- F. Interviews with 3 references provided by the applicant on the SF85P.
- G. A check of military records if the applicant was in the Armed Forces within the past 7 years.

Obtaining Criminal Records

For purposes of the criminal history check, ChoicePoint obtained criminal records in two of four ways, based on the home and work addresses provided on the applicant's SF85P:

- A researcher retrieved records from the appropriate felony and misdemeanor court, or
- A researcher checked the appropriate felony and misdemeanor on-line court system, or
- A researcher submitted requests to court clerk if no public access is available at the court,
and
- A search of ChoicePoint's National Criminal File that contains more than 75 million criminal conviction records

Once court records had been reviewed by a court records researcher, the results of the search were returned to a ChoicePoint public record coordination facility. The results were reviewed for accuracy and then electronically updated on the applicant's file.

Our protocol for confirming a criminal record belonged to an applicant required a match of at least two identifiers found in the SF85P - an applicant's full name, Social Security Number and Date of Birth.

Although ChoicePoint was provided with a list of disqualifying crimes for classification purposes, our process for conducting criminal record searches was not restricted to any defined list of crimes. We reported all offenses that could be confirmed as belonging to an applicant.

Applicants who had been convicted of one of the following 28 specified felony crimes within the last ten (10) years were classified as ineligible.

- (1) Forgery of certificates, false marking of aircraft, and other aircraft registration violation; 49 U. S.C. 46306.
- (2) Interference with air navigation; 49 U.S.C. 46308.
- (3) Improper transportation of a hazardous material; 49 U.S.C. 46312.
- (4) Aircraft piracy; 49 U.S.C. 46502.
- (5) Interference with flight crew members or flight attendants; 49 U.S.C. 46504.
- (6) Commission of certain crimes aboard aircraft in flight; 49 U.S.C. 46506.
- (7) Carrying a weapon or explosive aboard aircraft; 49 U.S.C. 46505.
- (8) Conveying false information and threats; 49 U.S.C. 46507.
- (9) Aircraft piracy outside the special aircraft jurisdiction of the United States;

49 U.S.C. 46502(b).

- (10) Lighting violations involving transporting controlled substances; 49 U.S.C. 46315.
- (11) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; 49 U.S.C. 46314.
- (12) Destruction of an aircraft or aircraft facility; 18 U.S.C. 32.
- (13) Murder.
- (14) Assault with intent to murder.
- (15) Espionage.
- (16) Sedition.
- (17) Kidnapping or hostage taking.
- (18) Treason.
- (19) Rape or aggravated sexual abuse.
- (20) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon.
- (21) Extortion.
- (22) Armed or felony unarmed robbery.
- (23) Distribution of, or intent to distribute, a controlled substance.
- (24) Felony arson.
- (25) Felony involving a threat.
- (26) Felony involving—
 - (i) Willful destruction of property;
 - (ii) Importation or manufacture of a controlled substance;
 - (iii) Burglary;
 - (iv) Theft;
 - (v) Dishonesty, fraud, or misrepresentation;
 - (vi) Possession or distribution of stolen property;
 - (vii) Aggravated assault;
 - (viii) Bribery; or
 - (ix) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year.
- (27) Violence at international airports; 18 U.S.C.37.
- (28) Conspiracy or attempt to commit any of the criminal acts listed in this paragraph.

Verification of Employment, Education, and References

To conduct the required reference checks, ChoicePoint adopted the reference questionnaire format utilized by the U.S. Office of Personnel Management, Form INV 42. We used the same protocol used when conducting reference checks for our various commercial clients. This process involved contacting the references by telephone listed by the applicant. The interview process also allowed us to identify employment and education gaps and conflicts, but did not resolve these discrepancies. Issues identified in the reference check phase resulted in an applicant being placed in the yellow category for additional review by downstream vendors.

Background Check Classification

Our role was not to make judgments about the quality of the candidates. ChoicePoint classified candidates in one of three categories based on a color-coded system. Red or “ineligible” indicated the presence of at least one of 28 disqualifying crimes, and yellow or “decisional” if a candidate had been convicted of a crime not included on the list of 28 offenses or other specific factors. If no crime or other disqualifying factor was discovered, an applicant was classified as green or “eligible.”

The results of background checks were classified according to the TSA criteria found on Attachment B. During the early stages of the project, ChoicePoint did not perform the classification work.

The criteria for classification was adopted on July 22, 2002. The classification criteria, with the exception of the list of disqualifying crimes, was jointly developed by ChoicePoint and the TSA using TSA requirements and ChoicePoint recommendations based on our experience working commercial background investigation processes. The criteria for disqualifying crimes was developed and provided by the TSA.

It should be noted that ChoicePoint’s red, yellow, and green classification represented a preliminary status in the overall background investigation process. As outlined in the TSA Memorandum titled “**Investigation and Adjudicating Screeners: A Process and Plan**”, dated August 15, 2002, final adjudication of all background checks was the responsibility of TSA Office of Security.

Once ChoicePoint concluded a TSA background investigation, the results were posted to a secure electronic filing cabinet, accessible via the Web portal discussed earlier. The results were also provided to TSA on a CD-ROM. TSA had access to the secure Web site as did TSA vendor DynCorp Investigative Services

Classification Results

Attachment C shows the specifics of the how the more than 112,000 candidates were classified upon completion the background review. A total of 288 applicants were classified as red, 53,922 were classified as yellow and a total of 49,971 were classified as green. An additional 8,097

applicants were not categorized because they were reviewed prior to the development of the color-coded classification system.

While most of the applicant's reviews were conducted with fully completed SF85P forms, a number of the background checks were considered by ChoicePoint to be "partial" reviews because of missing information. These were incomplete applications that were supplied to us either in paper form or before the implementation of the ChoicePoint-built automated application Web site that prevented the submission of incomplete SF85P forms.

ChoicePoint's involvement in the hiring process ended with the delivery of a completed file into the electronic filing cabinet. We were not involved in the collection and delivery of applicant fingerprints or in the collection or processing of applications.

Conclusion

Mr. Chairman and members of the Committee, ChoicePoint is pleased to have supported the TSA in fulfilling their mission of improving transportation security. And, we applaud the TSA for seeking out and embracing the technologies and information tools that help enhance make our world a safer place.

By using proven technologies used by the private sector everyday, we helped the TSA dramatically reduce the average time needed to conduct a thorough criminal background check – from months to days – and significantly reduced the cost to taxpayers by more than half on a per background screen basis.

We processed approximately 112,000 background checks based on the information provided by NCS Pearson as one part of what we knew was a much broader hiring process. Based on the information we developed in the criminal background check, we classified each applicant into one of three categories in a color coded system – red for "ineligible" applicants, yellow for "decisional" applicants and "green" for eligible" candidates – based on criteria supplied by the TSA. Applicants in the yellow categories required additional scrutiny by the TSA or other contractors downstream of our work.

The results of the criminal checks were made available to the TSA and downstream contractors while reference checks were conducted. After reference checks were completed, we issued an updated classification that was passed along to the TSA and downstream contractors, ending our involvement in the broader hiring process.

Mr. Chairman, private sector screening companies, such as ChoicePoint, using proven technologies provide better value than the traditional public sector methods for government background checks. We can do the same work, using proven techniques and technologies, more efficiently and cost effectively.

I look forward to your questions.

Thank you.

Attachment A

(see accompanying charts on process)

Attachment B

| Category | Ineligible RED | Decisional YELLOW | Pass GREEN |
|-------------------|--|--|--|
| Criminal | All convictions for the 28 crimes listed in the FAA guidelines (see Disqualifying Crimes List above) | All other criminal activity | No criminal activity |
| Credit | None | Judgments and tax liens within the past 7 years that haven't been satisfied at the time of the credit report. More than 5 collection items that haven't been paid. Medical collections and accounts listed in a bankruptcy aren't to be included. More than 10 accounts in the trade line section of the reports that are charged off or placed for collection. | All others |
| Employment | None | Any employment interview which produces clearly derogatory information or which shows clear falsification. | All other employment situations including cases where we're unable to verify employment due to unavailability of data. |
| Education | None | Any education interview which produces clearly derogatory information or which shows clear falsification. Any case which doesn't verify HS or GED. | All other education situations including cases where we're unable to conduct interviews. |
| References | None | Unfavorable information provided by a reference. No references provided other than relatives. References don't know candidate. | All other reference situations, including references we can't contact. |

Attachment C

| | Total |
|--|--------------|
| Partial Background Investigations | |
| Non classified | 0 |
| Red | 65 |
| Yellow | 7,014 |
| Green | 9,908 |
| Total Partial Backgrounds | 16,987 |
| | |
| Full Background Investigations | |
| Non classified | 8,097 |
| Red | 223 |
| Yellow | 46,908 |
| Green | 40,063 |
| Total Full Backgrounds | 95,291 |
| | 112,278 |